

FILED
U.S. BANKRUPTCY COURT
EASTERN DISTRICT OF TEXAS
JUL 16 2024

CASE NO. 24-04025

2024 JUL 16 PM 12:38

Dipakkumar P Pravin
7432 Bradford Pear Dr
Irving TX-75063
Plaintiff(s),

VS.

Sidhartha Mukherjee and
Sunita Mukherjee
3905 Kite Meadow Drive
Plano, TX 75074

Defendant(s).

§ IN THE COURT
§ BY _____ DEPUTY
§ SHERMAN DIVISION
§ IN THE UNITED STATES
§ BANKRUPTCY COURT
§ FOR THE EASTERN
§ DISTRICT OF TEXAS

MOTION FOR DEFAULT JUDGMENT

1. **Parties.** Movant, i.e., the party bringing this motion is **Dipakkumar P Pravin** (“Plaintiff”), who moves the Court to enter a default judgment against **Sidhartha Mukherjee and Sunita Mukherjee** (“Defendant(s)”) pursuant to Fed. R. Civ. P.55(b)(2)
2. **This motion** is also a follow-on response to an order dated 06/25/2024 by THE HONORABLE JOSHUA P. SEARCY UNITED STATES BANKRUPTCY JUDGE in this matter.
3. **Grounds.** Movant is entitled to be granted a default judgment against the opposing party, and as grounds to justify the same, shows the Court the following:
 - a. On April 30, 2024, Plaintiff filed a petition (24-04025) with claims for:
 - a. Recovery of money for \$103,625.00 Principal + Interest
 - b. Objection to dischargeability per section 523(a)(2)
 - b. Service was executed by USPS on **May 6, 2024, at 02:38 PM** (Exhibit-C)

- c. Return of service has been on file for more than ten (10) days.
- d. Although the Defendant(s) were duly served with process/notification of the claim against it, the **Defendant(s) failed to appear and/or answer up until June 24, 2024**. Consequently, the Defendant(s) have wholly defaulted as of that date.
- e. Following statements to support that (1) plaintiff is owed money (both principal and interest) from defendants, (2) defendants had agreed on many occasions to pay back both principal and interest in written messages, (3) the defendants had provided checks that were not honored by their banks and (4) the defendants provided invoices sent to the local government agency claiming those incoming (to defendant) money owed by the agency will be used to pay the plaintiff, however, defendants did not submit those to the Chapter 7 trustee:
 - a. Exhibits E & F, show actual loan contracts that defendant-1 had signed for loans to be repaid with interests back to the plaintiff.
 - b. Exhibits-H shows **two checks given but never paid to the plaintiff** and a hand-written note by defendant-1 proving **they owe money with interest to the plaintiff**.
 - c. Exhibit-I shows another bounced check, again proving the defendants owe money to the plaintiff.
 - d. Exhibits-J show attorney fees to file proof of claim in the original case 23-41386. This became necessary since **defendants had left out plaintiff from their bankruptcy filing even though they were being**

represented by an attorney and per Exhibit-M were fully aware of the debt owed to the plaintiff.

- e. Exhibit-K shows court filing fees for adversary proceedings 24-04025.
- f. Exhibit-M shows that even after filing their bankruptcy case 23-41386 on July 31, 2023, defendant-1 kept promising to pay back the plaintiff during the month of August 2023.
- g. Exhibit-N shows the defendants messaging claiming Dallas Housing Authority (DHA) owes them money from three specific invoices, but these were not provided to Chapter 7 trustee despite an agreement by the defendant-1 under oath during the Jan-05-2024 341 hearing.

f. Therefore, the Movant is entitled to judgment as a matter of law under Rule Fed. R. Civ. P.55(b)(2).

g. Damages include following items:

- Actual damages totaling \$103,625.00 (Principal + Interest).
- Punitive damages
- Court costs
- Reasonable attorney's fees
- Other: Cost of recovery post court judgement

4. Subsequent to the default judgement granted by this court per an order dated 06/25/2024, on July 10, 2024, defendants' attorney informed me of their motion to set aside the court's order of default. **I am opposed to the defendants' motion and will file my opposition separately.**

5. **Attachments.** Movant has attached the following documents to this motion.

- Certificate of Last Known Mailing Address for each Defendant (Exhibit-A)
- Military Status Affidavit for each individual Defendant (Exhibit-B)
- Proof of Service execution by USPS (Exhibit-C)
- Defendants' Competence Status Affidavit (Exhibit-D)
- First short-term borrowing contracts for \$25,000/- signed by (Defendant-1) Sidhartha Mukherjee on March 26,2021 to be repaid with principal and interest @2.5% per month (Exhibit-E)
- Second short term borrowing contracts for \$30,000/- signed by (Defendant-1) Sidhartha Mukherjee on June 29,2021 to be repaid with principal and interest @2.5% per month (Exhibit-F)
- Calculations showing original principal amounts (\$55,000/-) plus subsequently accrued interests (\$48,625.00) per the two contracts which totals to (\$103,625.00) (Exhibit-G)
- Two bounced checks each of \$30,000/- signed by (Defendant-1) Sidhartha Mukherjee and his hand-written note indicating to pay interest at a later time. Neither of the checks ever cleared, one time their business partner Venkata declined to pay on December 19, 2022. These two checks were hand delivered to me on November 7, 2022, by his supervisor named Chui at my home. (Exhibit-H)

Another bounced/unpaid check of \$39,000/- signed by (Defendant-1)

Sidhartha Mukherjee on April 12, 2023 (Exhibit-I)

Attorney's Fees Receipt & Affidavit (Exhibit-J)

Court filing fee receipt \$350.00 for the adversary proceedings number 24-04025 (Exhibit-K)

The proposed form of judgment for execution by this Court (Exhibit-L)

WhatsApp messages with Defendant-1 between July 28, 2023, and

August 4, 2023, during which defendant-1 kept promising to pay money.

Their bankruptcy case 23-41386 was filed on July-31-2023 (Exhibit-M)

The defendants messaging claiming Dallas Housing

Authority (DHA) owes them money from three specific invoices, but

these were not provided to Chapter 7 trustee despite an agreement by the defendant-1 under oath during the Jan-05-2024 341 hearing (Exhibit-N)

6. **Prayer.** Movant prays that the Court enter a default judgment in Movant's favor against the Defendants, Sidhartha Mukherjee and Sunita Mukherjee, for the following relief:

Return of the principal and accrued interest due to the plaintiff in the

amount of **\$103,625.00 (Principal + Interest)**

Court filing fee \$350.00 for the adversary proceedings number 24-04025.

Attorney's fees in the amount of \$495.00 for the proof of claim

representation in the defendants' action case number 23-41386

Punitive damages in an amount, which the court determines sufficient to

deter the same or similar actions which gave rise to this lawsuit by the

Defendant in the future, not less than \$55,000.00 which is the original principal amount since the defendants' actions denied me the opportunity to use my money since July 2021 and continuing.

- Post-judgment interest at the highest rate allowed per annum.
- All taxable costs of court post judgement, and
- All further relief to which Movant may be entitled, including all writs necessary to facilitate enforcement and collection of the Court's awarded judgment.

Total Requested: \$ 159,470.00 plus additional reimbursements of the future costs outlined above.

Respectfully submitted,

Sincerely,

Signature: Dipakkumar Pravin

Name: Dipakkumar (Dipak) P Pravin
Address: 7432 Bradford Pear Dr, Irving, TX-75063
Phone: +1-716-830-6129
Email: DipakPravin@yahoo.com

Plaintiff

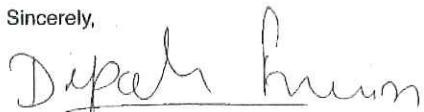
CERTIFICATE OF SERVICE

This is to certify that on **6th day of May 2024**, a true and correct copy of the **case#24-04025** document was served via United States Postal Services (USPS).

Sidhartha Mukherjee and Sunita Mukherjee (Defendants)
3905 Kite Meadow Drive
Plano, TX 75074

Signature:

Sincerely,



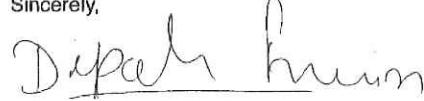
Name: Dipakkumar (Dipak) P Pravin

CERTIFICATE OF SERVICE

This is to certify that **July 16, 2023 (EOD)**, a true and correct PDF copy of this document was served via email to the defendants attorneys at emails **Nick Shahbazi <nick@herrinlaw.com> & Amy Conine <amy@herrinlaw.com>**

Signature:

Sincerely,



Name: Dipakkumar (Dipak) P Pravin